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SUBJECT: DEMARCHE: NEW U.S. POLICY ON CLUSTER MUNITIONS

1. (U) This is an action request. See para 3.

2. (SBU) Summary: The Secretary of Defense approved a new U.S. DoD Policy on Cluster Munitions on June 19 that expands on the policy established by Secretary Cohen in 2001. This new policy incorporates additional ways to address humanitarian concerns posed by cluster munitions while protecting an important military capability. The policy will be formally announced in Washington D.C. on July 9. Action addressee posts are requested to deliver the paper below (para 6) to host governments after OOB Washington time on July 9. End Summary.

OBJECTIVES

3. (SBU) Department requests Embassy pursue the following objectives with host government (HG) Ministries of Defense (MOD) and Foreign Affairs (MFA):

-- Inform host government of the approval of the new Department of Defense Policy on cluster munitions.

-- Provide details on the new policy (see paper in para. 6), noting that the U.S. delegation to the Convention on Conventional Weapons will be able answer questions regarding this policy.

-- Reiterate U.S. support for the on-going negotiations on cluster munitions within the framework of the Convention on Conventional Weapons. (A negotiating session is currently taking place in Geneva, having started July 7 and ending July 25.)

BACKGROUND

4. The Secretary of Defense has approved a new policy on cluster munitions, the result of a year-long review process by the Department of Defense to develop recommendations on ways to address humanitarian concerns presented by these weapons while preserving an important military capability.

5. Negotiations on a new Protocol to the Convention on Conventional Weapons (CCW) on cluster munitions resume in July with full U.S. support. The session is taking place July 7-25 in Geneva. The U.S. delegation is playing an active role in this process with the goal of concluding a treaty by the end of 2008.

6. Paper outlining new U.S. Department of Defense Cluster Munitions Policy

The United States shares the concerns of many states regarding the potential unintended harm to civilians and civilian infrastructure that can result from the use of cluster munitions. Concern over these negative consequences was one reason that the Department of Defense initiated its review of cluster munitions. The United States believes that this new policy will provide better protection of civilians and civilian

infrastructure following a conflict while taking into account the military need to retain this type of weapon.

Features of the new policy are:

--In ten years (by the end of 2018), the United States military will no longer use cluster munitions which, after arming, result in more than 1% unexploded ordnance across the range of intended operational environments.

--This means that all cluster munitions employed by the United States after 2018 must meet this criterion for all intended operational conditions.

--The new policy supports the ongoing transformation in the U.S. cluster munitions arsenal.

--There are no waivers for this criterion.

--While each of the military Services will determine how to meet this new requirement, the policy encourages the incorporation of self-destruct, self-neutralization and self-deactivation mechanisms in submunitions.

--Older systems for which military requirements no longer exist or for which there are inventory numbers in excess of those required by our military will be reduced as soon as possible.

--All cluster munitions sold or transferred by the Department of Defense must meet the 1% UXO rate criteria by 2018.

--Prior to 2018, in order to receive cluster munitions from U.S. Department of Defense that do not meet the 1% UXO rate criteria, foreign governments must agree that they will not use these cluster munitions after 2018.

--The Department of Defense will continue to strictly follow the requirements of international humanitarian law, including the principles of discrimination and proportionality, in its use of cluster munitions.

--The United States will also continue to follow the provisions for sharing information, clean up of unexploded and abandoned ordinance, and other relevant elements of Protocol V of the Convention on Conventional Weapons that is before the Senate for its advice, and consent to ratification. The United States has already contributed over \$1.3 billion to clearance of landmines and explosive remnants of war, including cluster munitions.

--The United States supports negotiations of a new protocol to the Convention on Conventional Weapons on cluster munitions and will continue to play an active role in these negotiations. We have called for completion of a CCW cluster munitions protocol by the end of 2008.

END PAPER TEXT

17. (U) For more information on this issue please contact PM/WRA: Michael E. Williams (202-663-0287) or Katherine M. Baker (reachable in Geneva until July 25 at BakerKM@state.gov).
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